



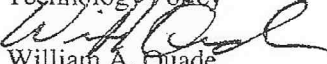
U.S. Department
of Transportation
Federal Motor Carrier
Safety Administration

Memorandum

MC-ECE-0018-08

Subject: **ACTION:** Use of Advanced Information
Technology Policy

Date: DEC 24 2008

From: 
William A. Quade
Associate Administrator for Enforcement
and Program Delivery

Reply to
Attn. of: MC-ECE

To: Assistant Administrator and Chief Safety Officer
Associate Administrator for Field Operations
MC-E Office Directors/Division Chiefs
Office of Chief Counsel, Enforcement and Litigation
Field Administrators/Service Center Directors
Division Administrators/State Directors
National Enforcement Team
National Training Center

PURPOSE

The purpose of this memorandum is to provide updated direction to Federal and Motor Carrier Safety Assistance Program enforcement personnel in the use of Global Positioning Systems (GPS) and other advanced information technologies used to verify records of duty status (RODS) for accuracy.

BACKGROUND

In 1997 the Federal Motor Carrier Safety Administration (FMCSA) issued a policy memorandum which limited the use of advanced technology during Agency investigations regarding motor carrier compliance with the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency recognized the technologies, which were emerging and being implemented within the industry in 1997, offered positive opportunity to advance operational safety performance. Therefore, the Agency decided to initiate the 1997 policy limiting the use of advanced technology data and information during reviews in order to promote and encourage the use of these new technologies by the industry without the threat of enforcement actions by the Agency. This policy afforded the industry the opportunity to fully integrate the technology in its operations and overall safety management system. The Agency's policy achieved its purpose. These technologies are now common and essential in the industry's logistics, operations and safety management systems.

POLICY

With the issuance of this policy, FMCSA rescinds its 1997 policy entitled, "Policy on Use of Advance Information Technology." The Agency is now exercising its full statutory authority under 49 USC 504(c) to inspect and copy records of a motor carrier. As a result, the Division Administrator's concurrence prior to requesting access to any GPS or other advanced technology record for purposes of assessing the carrier's compliance is no longer needed.

If a company uses GPS, FMCSA has the authority to request the records, and use them during the normal course of an investigation. The FMCSA considers GPS records as supporting documents, as they record the time, date and location of vehicles and drivers.

Per 49 CFR 395.8 each motor carrier must maintain RODS, and all supporting documents for each driver it employs for a period of 6 months. This now includes records from GPS and other advanced information technology systems.

This does not, however, change our established policy included in the electronic Field Operations Training Manual for citing critical and non-critical false logs, as reiterated below:

What are the differences in false RODS violations?

- A critical false record-of-duty status is false by 1 hour or more, or 50 miles or more.
- A non-critical false record-of-duty status is false by less than 1 hour or 50 miles.

Federal and State enforcement staff should cite non-critical RODS violations when they are significant. If egregious violations exist at the non-critical false RODS threshold, and a habitual violator or a pattern is discovered, enforcement should be considered.

If a motor carrier maintains GPS records, and an investigator requests those records but the motor carrier refuses to allow FMCSA access, such action of the motor carrier should be considered "denial of access." The investigator must then follow the "Denial of Access Policy" dated December 24, 2008.

IMPLEMENTATION DATE

This policy is effective immediately.

Should you have any questions or need additional information, please contact Richard Johnson in the Enforcement and Compliance Division, at (202) 366-0476 (direct line), (main office line) (202) 366-9699 or via e-mail at richard.johnson@dot.gov.